UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED
07 DEC -3 AM 9:50
DEPUTY

UNITED STATES OF AMERICA, Plaintiff, v. **Salvador ESQUIVEL-Oliva,** Defendant	Magistrate Docket No. 07 MJ 2792 COMPLAINT FOR VIOLATION OF: Title 8, U.S.C., Section 1326 Deported Alien Found in the United States

The undersigned complainant, being duly sworn, states:

On or about **December 01, 2007** within the Southern District of California, defendant, **Salvador ESQUIVEL-Oliva,** an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **3rd** DAY OF **DECEMBER, 2007**

Ruben B. Brooks
UNITED STATES MAGISTRATE JUDGE

CONTINUATION OF COMPLAINT:
Salvador ESQUIVEL-Oliva

PROBABLE CAUSE STATEMENT

I declare under the penalty of perjury that the following statement is true and correct:

On December 1, 2007, Senior Patrol Agent M. Ponce was performing line watch duties in the Chula Vista area of responsibility. At approximately 2:30 a.m., Agent Ponce responded to a call via service radio regarding a group of seven individuals stranded in an unknown location on the Otay Mesa Mountains. Agent Ponce was advised that an individual in the group had contacted the emergency 911 services via his personal cell phone asking to be rescued from the mountains due to extreme cold weather and possible hypothermia. After several hours of searching, the Border Patrol helicopter located the group in an area known as "Windmill Canyon". "Windmill Canyon" is located approximately one mile east of the Otay Mesa, California Port of Entry and approximately one and half miles north of the United States/Mexico international boundary. This area is commonly used by undocumented aliens attempting to further their entrance into the United States.

At approximately 6:45 a.m., the helicopter guided Agent Ponce to the group's location. Agent Ponce identified himself as a Border Patrol Agent and questioned them all, including an individual later identified as the defendant **Salvador ESQUIVEL-Oliva**, as to their citizenship and nationality. All the individuals including the defendant freely admitted to being citizens and nationals of Mexico illegally present in the United States. At approximately 7:00 a.m., Agent Ponce placed all individuals under arrest. Agent Ponce then contacted dispatch and requested paramedics for the defendant. Due to the rough terrain and the defendant's state of hypothermia he had to be air lifted to UCSD Medical Center by the emergency medical services. At approximately 8:00 a.m., Agent Ponce arranged for the rest of the group to be transported to the Chula Vista Station for processing. At approximately 10:45 p.m., the defendant was released from UCSD Medical Center fit for travel and incarceration. He was then transported to the Chula Vista Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico** on **June 09, 2006** through **San Ysidro, California.** These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

Executed on December 2, 2007 at 9:30 a.m.

Ismael A. Canto
Senior Patrol Agent

On the basis of the facts presented in the probable cause statement consisting of **1** page(s), I find probable cause to believe that the defendant named in this probable cause statement committed the offense on **December 1, 2007,** in violation of Title **8**, United States Code, Section **1326**.

Ruben B. Brooks
United States Magistrate Judge

12/2/2007 at 9:50 a.m.
Date/Time